

ASSEMBLY BILL

No. 2679

**Introduced by Assembly Member Nunez
(Coauthor: Assembly Member Ruskin)**

February 22, 2008

An act to amend Section 43214 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2679, as introduced, Nunez. Solid waste: enforcement agencies.

Existing law, the California Integrated Waste Management Act of 1989, regulates the management of solid waste. The act provides that the California Integrated Waste Management Board may designate and certify a local enforcement agency within each county to carry out specified powers and duties and requires the board and certified local enforcement agencies to perform specified functions with regard to the regulation of solid waste management, including the issuance and enforcement of solid waste facilities permits. The board is required to develop performance standards for evaluating certified local enforcement agencies and to conduct a performance review of the enforcement agency every 3 years, or more frequently as determined by the board.

This bill would make technical nonsubstantive changes to the provision regarding the performance evaluation of enforcement agencies by the board. The bill would also declare the intention of the Legislature to enact subsequent legislation to clarify the statutory authority of the California Integrated Waste Management Board and enforcement agencies to allow those agencies to take appropriate enforcement actions to protect the public health and the environment from illegal or inappropriate solid waste disposal.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 43214 of the Public Resources Code is
2 amended to read:
3 43214. (a) The board shall develop performance standards for
4 evaluating certified local enforcement agencies and shall
5 periodically review each certified enforcement agency and its
6 implementation of the permit, inspection, and enforcement
7 program. The board's review shall include periodic inspections of
8 solid waste facilities within the jurisdiction of each enforcement
9 agency for the purpose of evaluating whether the enforcement
10 agency is appropriately applying and enforcing state minimum
11 standards at solid wastesites within its jurisdiction.
12 (b) Following *the* initial certification of an enforcement agency
13 by the board, the board shall conduct a performance review of the
14 enforcement agency every three years, or more frequently as
15 determined by the board.
16 (c) In conducting performance reviews of enforcement agencies,
17 the board shall, based on the performance standards developed
18 pursuant to subdivision (a), determine whether each enforcement
19 agency is in compliance with the requirements of this article and
20 the regulations adopted to implement this article. If the board finds
21 that an enforcement agency is not fulfilling its responsibilities
22 pursuant to this article and if the board also finds that this lack of
23 compliance has contributed to significant noncompliance with
24 state minimum standards at solid waste facilities within the
25 jurisdiction of the enforcement agency, the board shall withdraw
26 its approval of designation pursuant to Sections 43215 and 43216.
27 Notwithstanding Sections 43215 and 43216, if the board finds that
28 conditions at solid waste facilities within the jurisdiction of the
29 enforcement agency threaten public health and safety or the
30 environment, the board shall, within 10 days of notifying the
31 enforcement agency, become the enforcement agency until another
32 enforcement agency is designated locally and certified by the
33 board.
34 (d) The board shall find that an enforcement agency is not
35 fulfilling its responsibilities pursuant to this article, and may take

1 action as prescribed by subdivision (c), if the board, in conducting
2 its performance review, makes one or more of the following
3 findings with regard to compliance with this part and Part 5
4 (commencing with Section 45000):

5 (1) The enforcement agency has failed to exercise due diligence
6 in the inspection of solid waste facilities and disposal sites.

7 (2) The enforcement agency has intentionally misrepresented
8 the results of inspections.

9 (3) The enforcement agency has failed to prepare, or cause to
10 be prepared, permits, permit revisions, or closure and postclosure
11 maintenance plans.

12 (4) The enforcement agency has approved permits, permit
13 revisions, or closure and postclosure maintenance plans ~~which that~~
14 are not consistent with this part and Part 5 (commencing with
15 Section 45000).

16 (5) The enforcement agency has failed to take appropriate
17 enforcement actions.

18 (6) The enforcement agency has failed to comply with, or has
19 taken actions that are inconsistent with, or that are not authorized
20 by, this division or the regulations adopted by the board pursuant
21 to this division. ~~However, nothing in this~~ *This paragraph is intended*
22 ~~to does not~~ affect the authority of enforcement agencies pursuant
23 to subdivision (e) of Section 43209.

24 SEC. 2. The Legislature declares its intention to enact
25 subsequent legislation to clarify the statutory authority of the
26 California Integrated Waste Management Board and enforcement
27 agencies to allow those agencies to take appropriate enforcement
28 actions to protect the public health and the environment from illegal
29 or inappropriate solid waste disposal.